

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

BRIAN L. PATRICK,)	CASE NO. 4:06 CV 639
)	
Plaintiff,)	JUDGE PETER C. ECONOMUS
)	
v.)	
)	<u>MEMORANDUM OF OPINION</u>
DAVID BOBBY, <u>et al.</u> ,)	<u>AND ORDER</u>
)	
Defendants.)	

On March 20, 2006, pro se plaintiff Brian L. Patrick filed this action under 42 U.S.C. § 1983 against Trumbull Correctional Institution (“TCI”) Warden David Bobby, TCI Deputy Warden Julie Loomis, TCI Sergeant Raymond Lewis, TCI Chief Medical Officer Dr. James Kline, TCI Unit Manager Chris Caja, TCI Nurse Roger Baker, and TCI Health Care Administrator Marilyn Lane. In the complaint, plaintiff alleged that prison officials ignored his medical restrictions and placed him in a unit of the prison which permits tobacco smoking. He sought \$ 100,000.00 in compensatory damages and \$ 100,000.00 in punitive damages.

Mr. Patrick filed an Amended Complaint on May 12, 2006. The only defendant listed in this pleading is TCI Unit Manager Chris Caja. On page three of the pre-printed complaint form, Mr. Patrick indicates there are no additional defendants. The Amended Complaint is

substantially similar to the Original Complaint except that all of the allegations pertain only to the actions of Mr. Caja. This court therefore liberally construes the Amended Complaint as an indication of Mr. Patrick's intent to dismiss the remaining defendants from this action.

Accordingly, Warden David Bobby, TCI Deputy Warden Julie Loomis, TCI Sergeant Raymond Lewis, TCI Chief Medical Officer Dr. James Kline, TCI Nurse Roger Baker, and TCI Health Care Administrator Marilyn Lane are dismissed from this action without prejudice. The court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.¹ This action shall proceed solely on Mr. Patrick's claim against Unit Manager Chris Caja. The Clerk's Office is directed to forward the appropriate documents to the U.S. Marshal for service of process on this defendant and shall include a copy of this order in the documents to be served upon the defendants.

IT IS SO ORDERED.

S/Peter C. Economus - 5/23/06
PETER C. ECONOMUS
UNITED STATES DISTRICT JUDGE

¹ 28 U.S.C. § 1915(a)(3) provides:

An appeal may not be taken in forma pauperis if the trial court certifies that it is not taken in good faith.